

**TITLE 15**  
**VARIANCES**

***SUBTITLE 1. OVERVIEW***

**§ 15-101. Board authority.**

Subject to the provisions of this title, the Board may grant variances from requirements of this article.

**§ 15-102. Limitations.**

The Board's authority to grant a variance applies only to the specific purposes and only on the specific findings set forth in Subtitle 2 of this title.

***SUBTITLE 2. AUTHORIZED VARIANCES; REQUIRED FINDINGS***

***PART I. AUTHORIZED VARIANCES.***

**§ 15-201. In general.**

Subject to the findings required by Part II of this subtitle, the Board may grant a variance for the purposes set forth in this Part I, but for no other purpose.

**§ 15-202. Lot area and coverage.**

**(a) *Lot area.***

The Board may grant a variance to reduce the applicable minimum lot area requirements by no more than:

- (1) 25% of the applicable regulation;
- (2) for churches, temples, and synagogues in R-6 through R-10 Districts, 50% of the applicable regulation; or
- (3) for hotels and inns in a B-3 District, 50% of the applicable regulation if, in addition to all other findings required by this title, the Board finds that:
  - (i) the reduction will advance the general welfare of the community at large by preserving and promoting historical and architecturally significant structures located on the property; and
  - (ii) a qualified conservation contribution, as defined in the Internal Revenue Code, affecting the entire exterior of the property has been granted to a qualified historical group, as determined by the Board.

**(b) *Lot coverage.***

The Board may grant a variance to authorize a lot coverage that is more than that otherwise allowed by the applicable regulation.

**§ 15-203. Yards.**

The Board may grant a variance to authorize a yard or setback that is less than that otherwise required by the applicable regulation.

**§ 15-204. Heights and floor area ratios.**

**(a) *Heights.***

The Board may grant a variance to authorize a height that is more or less than that otherwise allowed by the applicable regulation.

**(b) *Floor area ratio.***

The Board may grant a variance to increase a basic floor area ratio factor by no more than 75% of the applicable regulation.

**§ 15-205. {Reserved}**

**§ 15-206. Gross floor area in B-1 District.**

In a B-1 District, the Board may grant a variance to increase by no more than 10% the maximum gross floor area of any use so limited.

**§ 15-207. {Reserved}**

**§ 15-208. Off-street parking — in general.**

(a) *Distance from use.*

The Board may grant a variance to increase by no more than 50% the maximum distance between required off-street parking facilities and the use that they serve.

(b) *Number of spaces.*

For uses other than marinas, the Board may grant a variance to reduce by no more than 75% the number of off-street parking spaces otherwise required by the applicable regulation.

(c) *Shared spaces.*

For uses other than marinas, the Board may grant a variance to authorize the same off-street parking spaces to serve as required spaces for 2 or more uses, as long as the 2 or more users do not make substantial use of the spaces at approximately the same hours of the same days of the week.

**§ 15-209. Off-street parking — marinas.**

(a) *Number of spaces — in general.*

For marinas, the Board may grant a variance to reduce by no more than 50% the number of off-street parking spaces otherwise required by the applicable regulation.

(b) *Number of spaces — accessory marinas.*

For accessory marinas, the Board may grant a variance to reduce by up to 100% the number of off-street parking spaces otherwise required by the applicable regulation, if:

- (1) adequate binding assurances are provided to insure that use of the marina slips is restricted to occupants of properties within 300 feet of a marina entrance; and
- (2) the parking requirement for the principal use has not been and is not later reduced by variance.

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### (c) *Shared spaces with marinas.*

For marinas, the Board may grant a variance to authorize other uses to share no more than 50% of the number of off-street parking spaces required for the marina, if:

- (1) substituted spaces, which may be off-site, are provided to meet the parking requirements for industrial or office uses not otherwise reduced by variance;
- (2) the nearest boundary of the substituted spaces is within 300 feet of the nearest marina entrance being served; and
- (3) where leased spaces are to be used to satisfy parking requirements:
  - (i) the lease is for a term of at least 20 years;
  - (ii) the lease is approved by the Director of Planning; and
  - (iii) a new conditional use hearing is held if the lease is not renewed or extended.

### (d) *Marina expansion.*

Before the Board may authorize the expansion of a marina, the Board must find, in addition to all other findings required by this title, that the entire marina will meet the current parking standards if the number of cumulative additional boat slips ever exceeds 25% of the number of slips that were constructed or for which permits had been issued on or before May 15, 1991.

## **§ 15-210. {Reserved}**

## **§ 15-211. Roomers.**

The Board may grant a variance to increase the number of roomers to more than that otherwise allowed by the applicable regulation.

## **§ 15-212. Front lot line by private ways.**

### (a) *In general.*

- (1) For purposes of establishing front lot lines, the Board may grant a variance to reduce the 30-foot minimum-width requirement for private ways limited exclusively to pedestrian traffic as provided in this section.
- (2) The variance may allow a reduction of not more than 5 feet for not more than 20% of the length of the private way between any 2 intersecting public or private ways.

### (b) *Application.*

The owners of all property adjoining the private way must join in the application to the Board for the variance.

(c) *Required findings.*

In addition to all other findings required by this title, the Board must find that the variance will promote planned group development of the land that binds on the private way, so that buildings adjoining the private way will be constructed or rehabilitated in a harmonious and architecturally attractive manner, to the end that the general welfare will be promoted by stabilizing and enhancing the economic values of all properties in the area and by providing an incentive for proper maintenance and elimination of obsolescence.

(d) *Referral to Planning.*

Before it grants the variance, the Board forwards the application to the Department of Planning for its report and recommendation in the same manner as provided in § 14-202 {"Referral to Planning"} and § 14-203 {"Planning report and recommendation"}, of this article for conditional uses.

**§ 15-213. {Reserved}**

**§ 15-214. Unusable lots.**

The Board may authorize any other variance from the terms of this article if, in addition to all other findings required by this title, the Board finds as a matter of fact that:

- (1) the lot cannot be reasonably used for any of the permitted or conditional uses set forth for the zoning district in which it is located;
- (2) the use or bulk regulations applicable to the lot have the effect of depriving the owner of all reasonable use of the lot; and
- (3) the variance is necessary to avoid arbitrariness.

**§§ 15-215 to 15-216. {Reserved}**

*PART II. REQUIRED FINDINGS*

**§ 15-217. In general.**

The Board may not grant a variance unless, after public notice and hearing, the Board makes the following findings.

**§ 15-218. Finding of unnecessary hardship or practical difficulty.**

The Board must find that, because of the particular physical surroundings, shape, or topographical conditions of the specific structure or land involved, an unnecessary hardship or practical difficulty would result, as distinguished from a mere inconvenience, if the strict letter of the applicable requirement were carried out.

**§ 15-219. Other required findings.**

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The Board must also find that:

- (1) the conditions on which the application is based are unique to the property for which the variance is sought and are not generally applicable to other property within the same zoning classification;
- (2) the unnecessary hardship or practical difficulty is caused by this article and has not been created by the intentional action or inaction of any person who has a present interest in the property;
- (3) the purpose of the variance is not based exclusively on a desire to increase the value or income potential of the property;
- (4) the variance will not:
  - (i) be injurious to the use and enjoyment of other property in the immediate vicinity; or
  - (ii) substantially diminish and impair property values in the neighborhood;
- (5) the variance will not:
  - (i) impair an adequate supply of light and air to adjacent property;
  - (ii) overcrowd the land;
  - (iii) create an undue concentration of population;
  - (iv) substantially increase the congestion of the streets;
  - (v) create hazardous traffic conditions;
  - (vi) adversely affect transportation;
  - (vii) unduly burden water, sewer, school, park, or other public facilities;
  - (viii) increase the danger of fire; or
  - (ix) otherwise endanger the public safety;
- (6) the variance is not precluded by and will not adversely affect:
  - (i) any Urban Renewal Plan; or
  - (ii) the City's Master Plan;
- (7) the variance will not otherwise:
  - (i) be detrimental to or endanger the public health, security, general welfare, or morals; or
  - (ii) in any way be contrary to the public interest;

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- (8) the variance is in harmony with the purpose and intent of this article; and
- (9) within the purpose and intent of this article, the variance granted is the minimum necessary to afford relief, to which end the Board may permit a lesser variance than that applied for.

***SUBTITLE 3. PROCEDURES***

**§ 15-301. Applications.**

(a) *Who may apply.*

An application for a variance must be filed by the property owner or with the written consent of the property owner.

(b) *Filing with Administrator.*

The application must be filed with the Zoning Administrator in the form that the Zoning Administrator requires.

(c) *Contents.*

The application must:

- (1) be accompanied by the plans and information that the Board requires by general rule; and
- (2) include a written statement by the applicant, with adequate supporting evidence, showing how the proposed variance will conform to the standards set forth in Subtitle 2 of this title.

(d) *Transmittal to Board.*

The Zoning Administrator must forward the application and all relevant information to the Board.

**§ 15-302. Imposition of conditions.**

(a) *Board may impose.*

Before the Board grants any variance, it may impose on the establishment, location, construction, maintenance, and operation of the variance, any conditions, restrictions, or limitations that it considers necessary or desirable to:

- (1) reduce or minimize any effect of the special exception or variance on other properties in the neighborhood;
- (2) secure compliance with the standards and requirements of this title; and
- (3) better carry out the intent and proposes of this article.

(b) *Guarantees.*

The Board may require whatever evidence and guarantees that it considers necessary to assure that the conditions, restrictions, and limitations imposed by it will be met and complied with.

(c) *Compliance required.*



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Failure to comply with any condition, restriction, or limitation imposed under this section constitutes a violation of this article.